

## CHAPTER 103

### PRODUCTS, PROGRAMS, AND RESOURCES REGULATED BY THE DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

H.F. 634

**AN ACT** providing for the department of agriculture and land stewardship's administration of certain functions, including by eliminating past dates relating to a determination of Iowa-foaled horse and to the rehabilitation and conservation of land affected by coal mining, providing for payment by the department for the examination of certain articles, allowing the department to adopt by reference certain federal publications affecting milk and milk products, modifying the definition of biobutanol, eliminating departmental duties and fees relating to weights and measures, providing for purchased-grain fees paid into the Iowa grain indemnity fund, and changing the name of the division of soil and water conservation and the name of its appointed administrative official.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I REGULATORY PROVISIONS

Section 1. Section 99D.22, subsection 2, paragraph a, Code 2015, is amended to read as follows:

a. All thoroughbred horses, quarter horses, or standardbred horses foaled in Iowa ~~prior to January 1, 1985,~~ which are registered by the jockey club, American quarter horse association, or United States trotting association as Iowa foaled shall be considered to be Iowa foaled.

Sec. 2. Section 99D.22, subsection 2, paragraph b, unnumbered paragraph 1, Code 2015, is amended to read as follows:

~~After January 1, 1985, eligibility~~ Eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

Sec. 3. Section 189.6, Code 2015, is amended to read as follows:

#### **189.6 Taking of samples.**

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of [this subtitle](#), in order to secure a sample for analysis or examination, and the sample and damage to container shall be paid for at the current market price ~~out of the contingent fund of~~ by the department.

Sec. 4. Section 192.101A, Code 2015, is amended by adding the following new subsection:  
NEW SUBSECTION. 1A. “*Federal publication*” means a publication produced by the United States department of health and human services including the United States public health service and United States food and drug administration.

Sec. 5. Section 192.102, Code 2015, is amended to read as follows:

#### **192.102 Grade “A” pasteurized milk ordinance.**

The department shall adopt, ~~by rule,~~ rules incorporating or incorporating by reference the federal publication entitled “Grade ‘A’ Pasteurized Milk Ordinance, 2005 Revision”, including a subsequent revision of the ordinance Ordinance”. If the ordinance specifies that compliance with a provision of the ordinance’s appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to [chapter 17A](#). The department shall administer [this chapter](#) consistent with the provisions of the ordinance.

Sec. 6. Section 192.110, subsection 1, Code 2015, is amended to read as follows:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in rules adopted by the department incorporating or incorporating by reference the federal public health service publications, entitled “Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers 2003” Shipments” and “Method “Methods of Making Sanitation Ratings of Milk Supplies, 2003 Revision” Shippers”. The applicable provisions of these publications are incorporated into [this section](#) by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in [section 192.108](#).

Sec. 7. Section 192.111, subsection 3, paragraph b, Code 2015, is amended by striking the paragraph.

Sec. 8. Section 192.118, Code 2015, is amended to read as follows:

**192.118 Certified laboratories.**

1. To insure uniformity in the tests and reporting, an employee certified by the United States public health service of the bacteriological laboratory of the department shall annually certify, in accordance with ~~the United States food and drug administration rules adopted by the department incorporating or incorporating by reference the federal publication entitled “Evaluation of Milk Laboratories” (1995 revision)~~, all laboratories doing work in the sanitary quality of milk and dairy products for public report. The approval by the department shall be based on the evaluation of these laboratories as to personnel training, laboratory methods used, and reporting. The results on tests made by approved laboratories shall be reported to the department on request, on forms prescribed by the secretary of agriculture, and such reports may be used by the department.

2. The department shall annually certify, in accordance with ~~rules adopted by the department incorporating or incorporating by reference the United States food and drug administration federal publication entitled “Evaluation of Milk Laboratories” (1995 revision)~~, every laboratory in the state doing work in the sanitary quality of milk and dairy products for public report. The certifying officer may enter any such place at any reasonable hour to make the survey. The management of the laboratory shall afford free access to every part of the premises and render all aid and assistance necessary to enable the certifying officer to make a thorough and complete examination.

Sec. 9. Section 199.3, subsection 6, Code 2015, is amended to read as follows:

6. Seed sold on or from the farm, which is exempt from the permit requirements by [section 199.15](#), shall be labeled on the basis of tests performed by the Iowa state university of science and technology seed testing laboratory, ~~department of agriculture and land stewardship seed laboratory~~, or a commercial seed laboratory personally supervised by a registered seed technologist. Tests for labeling shall be as provided in [section 199.10](#).

Sec. 10. Section 199.10, subsection 2, unnumbered paragraph 1, Code 2015, is amended to read as follows:

Charges for seed testing by the Iowa state university ~~or department of agriculture and land stewardship seed testing laboratory~~ shall be determined by the Iowa state university laboratory. Separate fee schedules shall be published for:

Sec. 11. Section 199.10, subsection 3, paragraph a, Code 2015, is amended to read as follows:

a. Integrate seed testing so as to avoid unnecessary duplication of personnel and equipment. ~~The department of agriculture and land stewardship seed laboratory shall be primarily concerned with seed testing for seed law enforcement purposes.~~ The Iowa state university seed testing laboratory shall promote seed education and research and shall conduct service testing for farmers and seed dealers.

Sec. 12. Section 203D.1, subsection 14, Code 2015, is amended to read as follows:

14. a. "Purchased grain" means grain which is entered in the company-owned paid position as evidenced on the grain dealer's daily position record.

b. "Purchased grain" does not include grain that is subject to an exempt transaction based on documentation satisfactory to the department showing that the grain dealer did any of the following:

(1) Purchased the grain from the United States government or any of its subdivisions or agencies.

(2) Purchased the grain from a person licensed as a grain dealer in any jurisdiction.

(3) Purchased the grain under a credit-sale contract.

(4) Entered the grain in the company-owned paid position as a cancellation of a collateral warehouse receipt.

(5) Entered the grain in the company-owned paid position as an intra-company location transfer.

Sec. 13. Section 203D.3A, subsection 2, paragraph a, Code 2015, is amended to read as follows:

~~a. A per-bushel fee shall be assessed on all purchased grain. However, if the grain dealer provides documentation regarding the transaction satisfactory to the department, the following transactions shall be excluded from the per-bushel fee:~~

~~(1) Grain purchased from the United States government or any of its subdivisions or agencies.~~

~~(2) Grain purchased from a person licensed as a grain dealer in any jurisdiction.~~

~~(3) Grain purchased under a credit-sale contract.~~

Sec. 14. Section 203D.5, subsection 2, paragraph a, subparagraph (1), Code 2015, is amended to read as follows:

(1) For a licensed grain dealer, not more than fourteen thousandths of a cent per bushel assessed on all purchased grain ~~entered in the company-owned paid position~~ during the grain dealer's last fiscal year at each location at which records are maintained for transactions of the grain dealer, as determined according to information submitted by the grain dealer to the department for the issuance or renewal of a license as provided in [section 203.5](#).

Sec. 15. Section 203D.5, subsection 4, unnumbered paragraph 1, Code 2015, is amended to read as follows:

If, at the end of any three-month period, on the last date of the fund's fiscal year as provided in [section 203D.3](#) the assets of the fund exceed eight million dollars, less any encumbered balances or pending or unsettled claims, all of the following apply:

Sec. 16. Section 206.32, subsection 1, Code 2015, is amended to read as follows:

1. A person shall not offer for sale, sell, purchase, apply, or use chlordane in this state, ~~on or after January 1, 1989.~~

Sec. 17. Section 207.1, subsection 1, Code 2015, is amended to read as follows:

1. It is the policy of this state to provide for the rehabilitation and conservation of land affected by coal mining and preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, and safety, ~~and general welfare~~ of the people of this state.

Sec. 18. Section 207.21, subsection 3, paragraphs a and b, Code 2015, are amended to read as follows:

a. The protection of public health, safety, ~~general welfare~~, and property from extreme danger of adverse effects of coal mining practices.

b. The protection of public health, and safety, ~~and general welfare~~ from adverse effects of coal mining practices.

Sec. 19. Section 207.23, subsection 1, Code 2015, is amended to read as follows:

1. Within six months after the completion of a project to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the division shall itemize the money expended on the project and may file a lien statement in the office of the district court clerk of each county in which a portion of the property affected by the project is located, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past mining practices if the money so expended results in a significant increase in property value. A copy of the lien statement and the appraisal, if required, shall be served upon affected property owners in the manner provided for service of an original notice. The lien shall not exceed the amount determined by the appraiser to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices. A lien shall not be filed in accordance with [this subsection](#) against the property of a person who ~~owned the surface prior to May 2, 1977, and who~~ neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation performed.

Sec. 20. Section 214A.1, subsection 3, Code 2015, is amended to read as follows:

3. “*Biobutanol*” means isobutyl or n-butyl alcohol that is to be blended with gasoline if it meets the standards provided in [section 214A.2](#).

Sec. 21. Section 214A.2, subsection 3, paragraph c, subparagraph (1), Code 2015, is amended to read as follows:

(1) Biobutanol must be an agriculturally derived isobutyl or n-butyl alcohol that meets A.S.T.M. international specification D7862 for butanol for blending with gasoline for use as automotive spark-ignition engine fuel, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

Sec. 22. Section 215.17, subsection 1, Code 2015, is amended to read as follows:

1. A person engaged in scale repair work for hire shall use only test weights sealed by a laboratory approved by the department in determining the effectiveness of repair work and the test weights shall be sealed as to their accuracy once each year. However, a person shall not claim to be an official scale inspector and shall not use the test weights except to determine the accuracy of scale repair work done by the person and the person shall not be entitled to a fee for their use. ~~A fee shall be charged and collected at time of inspection for the inspection of such weights as follows:~~

<del>All weights up to and including 25 pounds .....</del>	<del>.....\$ 1.10 each</del>
<del>Over 25 pounds capacity, up to and including 50 pounds .....</del>	<del>..... 2.25 each</del>
<del>Over 50 pounds capacity, up to and including 100 pounds .....</del>	<del>..... 3.00 each</del>
<del>Over 100 pounds capacity, up to and including 500 pounds .....</del>	<del>..... 4.50 each</del>
<del>Over 500 pounds capacity, up to and including 1,000 pounds .....</del>	<del>..... 7.50 each</del>

Sec. 23. Section 215.17, subsection 2, Code 2015, is amended by striking the subsection.

DIVISION II  
SOIL CONSERVATION AND WATER QUALITY

Sec. 24. Section 159.5, subsection 12, Code 2015, is amended to read as follows:

12. ~~Establish~~ Create and maintain a division of soil conservation and water quality as provided in [chapter 161A](#). ~~The division administrator~~ division’s director shall be appointed by the secretary from a list of names of persons recommended by the soil conservation committee, pursuant to [section 161A.4](#), ~~subsection 6, paragraph “c”~~, and shall serve at the

pleasure of the secretary. The director shall be the administrator responsible for carrying out the provisions of chapters 207 and 208.

Sec. 25. Section 159.18, subsection 1, Code 2015, is amended to read as follows:

1. As used in this section, “*farm programs*” includes but is not limited to financial incentive programs established within the department’s division of soil conservation of the department of agriculture and land stewardship and water quality as provided in section 161A.70 and the beginning farmer loan program administered by the Iowa finance authority as provided in section 16.75 chapter 16.

Sec. 26. Section 161A.3, subsection 7, Code 2015, is amended to read as follows:

7. “*Division*” means the division of soil conservation and water quality created within the department pursuant to section 159.5.

Sec. 27. Section 161A.4, subsection 1, Code 2015, is amended to read as follows:

1. ~~The soil conservation division is established of soil conservation and water quality created within the department to pursuant to section 159.5 shall perform the functions conferred upon it in this chapter and chapters 161C, 161E, 161F, 207, and 208. The division shall be administered in accordance with the policies of the state soil conservation committee, which shall advise the division and which shall approve administrative rules proposed by the division for the administration of this chapter and chapters 161C, 161E, 161F, 207, and 208 before the rules are adopted pursuant to section 17A.5. If a difference exists between the committee and secretary regarding the content of a proposed rule, the secretary shall notify the chairperson of the committee of the difference within thirty days from the committee’s action on the rule. The secretary and the committee shall meet to resolve the difference within thirty days after the secretary provides the committee with notice of the difference.~~

Sec. 28. Section 161A.4, subsection 2, unnumbered paragraph 1, Code 2015, is amended to read as follows:

In addition to other duties and powers conferred upon the division of soil conservation and water quality, the division has the following duties and powers:

Sec. 29. Section 161A.4, subsection 6, paragraph c, Code 2015, is amended to read as follows:

c. The committee shall recommend three persons to the secretary of agriculture who shall appoint from the persons recommended ~~an administrative a~~ director to head the division and serve at the pleasure of the secretary. After reviewing the names submitted, the secretary may request that the soil conservation committee submit additional names for consideration.

Sec. 30. Section 161A.6, unnumbered paragraph 4, Code 2015, is amended to read as follows:

The commissioners may call upon the attorney general of the state for such legal services as they may require. The commissioners may delegate to their chairperson, to one or more commissioners or to one or more agents, or employees, such powers and duties as they may deem proper. The commissioners shall furnish to the division ~~of soil conservation~~, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this chapter.

Sec. 31. Section 161A.7, subsection 1, paragraph n, subparagraph (2), Code 2015, is amended to read as follows:

(2) The title page of the district plan and a notification stating where the plan may be reviewed shall be recorded with the recorder in the county in which the district is located, and updated as necessary, after the committee approves and the ~~administrator~~ director of the division signs the district plan. The commissioners shall provide notice of the recording and may provide a copy of the approved district plan to the county board of supervisors in the

county where the district is located. The district plan shall be filed with the division as part of the state soil and water resource conservation plan provided in [section 161A.4](#).

Sec. 32. Section 161A.18, Code 2015, is amended to read as follows:

**161A.18 Certification.**

Following the entry in the official minutes of the soil and water conservation district commissioners of the creation of the subdistrict, the commissioners shall certify this fact on a separate form, authentic copies of which shall be recorded with the county recorder of each county in which any portion of the subdistrict lies, and with the division of soil conservation.

Sec. 33. Section 161A.61, subsection 2, paragraph b, Code 2015, is amended to read as follows:

b. Bring the farm unit which is the subject of the order into compliance with a plan developed for that farm unit by the commissioners, in accordance with guidelines established by the division of soil conservation, and presented to the court as a part of the commissioners' petition, if a farm unit soil conservation plan has not previously been agreed upon for that farm unit. A plan presented to the court by the commissioners under this paragraph shall specify as many alternative approved soil and water conservation practices as feasible, among which the owner or occupant of the farm unit may choose in taking the steps necessary to comply with the court's order.

Sec. 34. Section 161A.80, subsection 2, paragraph b, Code 2015, is amended to read as follows:

b. The principal and interest from any bluffslands protection loan outstanding on July 1, 2015, and payable to the bluffslands protection revolving fund, shall be paid to the ~~administrative~~ director of the division of soil conservation and water quality created in [section 159.5](#) on or after July 1, 2015, pursuant to the terms of the loan agreement and shall be credited to the rebuild Iowa infrastructure fund.

Sec. 35. Section 161C.1, subsection 4, Code 2015, is amended to read as follows:

4. "Division" means the division of soil conservation and water quality created within the department pursuant to [section 159.5](#).

Sec. 36. Section 161D.1, subsection 2, Code 2015, is amended to read as follows:

2. The mission of the authority is to develop and coordinate plans for projects related to the unique natural resource, rural development, and infrastructure problems of counties in the deep loess region of western Iowa. The erosion and degradation of stream channels in the deep loess soils has occurred due to historic channelization of the Missouri river and straightening stream channels of its tributaries. This erosion of land has damaged the rural infrastructure of this area, destroyed public roads and bridges, adversely impacted stream water quality and riparian habitat, and affected other public and private improvements. Stabilization of stream channels is necessary to protect the rural infrastructure in the deep loess soils area of the state. The authority shall cooperate with the division of soil conservation of and water quality created within the department of agriculture and land stewardship pursuant to [section 159.5](#), the affected soil and water conservation districts, the department of natural resources, and the state department of transportation in carrying out its mission and duties. The authority shall also cooperate with appropriate federal agencies, including the United States environmental protection agency, the United States department of interior, and the United States department of agriculture natural resources conservation service. The authority shall make use of technical resources available through member counties and cooperating agencies.

Sec. 37. Section 161D.8, subsection 1, unnumbered paragraph 1, Code 2015, is amended to read as follows:

The authority shall submit to the department of management, the legislative services agency, and the division of soil conservation and water quality of the department of agriculture and land stewardship, on or before December 31 annually, a report including information regarding all of the following:

Sec. 38. Section 161D.11, subsection 3, Code 2015, is amended to read as follows:

3. The authority shall cooperate with the division of soil conservation and water quality of the department of agriculture and land stewardship, ~~and the affected soil and water conservation districts,~~ the department of natural resources, and the state department of transportation in carrying out its mission and duties. The authority shall also cooperate with appropriate federal agencies, including the United States environmental protection agency, the United States department of interior, and the United States department of agriculture natural resources conservation service. The authority shall make use of technical resources available through member counties and cooperating agencies.

Sec. 39. Section 161D.13, subsection 1, unnumbered paragraph 1, Code 2015, is amended to read as follows:

The southern Iowa development and conservation authority shall submit to the department of management, the legislative services agency, and the division of soil conservation and water quality of the department of agriculture and land stewardship, on or before December 31 annually, a report including information regarding all of the following:

Sec. 40. Section 207.2, subsections 1 and 3, Code 2015, are amended to read as follows:

1. “*Administrator*” means the ~~division~~ administrator of the ~~division of soil conservation~~ or a designee.

3. “*Division*” means the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to [section 159.5](#).

Sec. 41. Section 208.2, subsections 1 and 4, Code 2015, are amended to read as follows:

1. “*Administrator*” means the administrator of the ~~division of soil conservation~~ or a designee.

4. “*Division*” means the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to [section 159.5](#).

Sec. 42. Section 455A.1, subsection 6, Code 2015, is amended by striking the subsection.

Sec. 43. Section 455A.19, subsection 1, paragraph c, Code 2015, is amended to read as follows:

c. Twenty percent shall be allocated to the soil and water enhancement account. The moneys shall be used to carry out soil and water enhancement programs including, but not limited to, reforestation, woodland protection and enhancement, wildlife habitat preservation and enhancement, protection of highly erodible soils, and clean water programs. The division of soil conservation and water quality within the department of agriculture and land stewardship, by rule, shall establish procedures for eligibility, application, review, and selection of projects and practices to implement the requirements of this paragraph. There is appropriated from the soil and water enhancement account to the ~~soil conservation division of soil conservation and water quality~~ the amount in that account, or so much thereof as is necessary, to carry out the programs as specified in this paragraph. Remaining funds of the soil and water enhancement account shall be allocated to the accounts of the water protection fund authorized in [section 161C.4](#). Annually, fifty percent of the soil and water enhancement account funds shall be allocated to the water quality protection projects account. The balance of the funds shall be allocated to the water protection practices account. An appropriation made under this paragraph shall continue in force for two fiscal years after the fiscal year in which the appropriation was made or until completion of the project for which the appropriation was made, whichever date is earlier. All unencumbered or unobligated funds remaining at the close of the fiscal year in which the project is completed or at the close of the third fiscal year, whichever date is earlier, shall revert to the soil and water enhancement account.

Sec. 44. Section 456.11, subsection 10, Code 2015, is amended to read as follows:

10. *Copies furnished.* The state geologist shall provide the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to

[section 159.5](#) a copy of each map and map extension received by the geologist under [this section](#).

Sec. 45. Section 460.101, Code 2015, is amended by adding the following new unnumbered paragraph before subsection 1:

NEW UNNUMBERED PARAGRAPH. As used in [this chapter](#), unless the context otherwise requires:

Sec. 46. Section 460.101, subsection 6, Code 2015, is amended to read as follows:

6. “Division” means the division of soil conservation ~~division of~~ and water quality created within the department of agriculture and land stewardship pursuant to [section 159.5](#).

Sec. 47. Section 460.303, subsection 1, Code 2015, is amended to read as follows:

1. An agricultural drainage well water quality assistance fund is created in the state treasury under the control of the ~~soil conservation~~ division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee established pursuant to [section 161A.4](#), from the United States or private sources for placement in the fund.

Sec. 48. Section 460.304, subsection 1, Code 2015, is amended to read as follows:

1. The ~~soil conservation~~ division shall establish an agricultural drainage well water quality assistance program as provided by rules which shall be adopted by the division pursuant to [chapter 17A](#). The program shall be supported from moneys deposited in the agricultural drainage well water quality assistance fund created pursuant to [section 460.303](#).

Sec. 49. Section 461.33, subsection 2, paragraph a, Code 2015, is amended to read as follows:

a. Soil conservation and watershed protection, including by supporting the ~~soil conservation~~ division of soil conservation and water quality within the department of agriculture and land stewardship and soil and water conservation district commissioners. The department may provide for the installation of conservation practices and watershed protection improvements as provided in [chapters 161A, 161C, 461A, 466, and 466A](#).

Sec. 50. Section 466A.1, subsection 3, Code 2015, is amended to read as follows:

3. “Division” means the division of soil conservation and water quality created within the department of agriculture and land stewardship as established in pursuant to [section 161A.4 159.5](#).

Sec. 51. Section 466A.5, Code 2015, is amended to read as follows:

**466A.5 Administration.**

The ~~soil conservation~~ division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to [section 159.5](#) shall provide administrative support to the board. Not more than one percent of the total moneys deposited in the general account of the watershed improvement fund on July 1 of a fiscal year or fifty thousand dollars, whichever is less, is appropriated each fiscal year to the division for the purposes of assisting the watershed improvement review board in administering [this chapter](#).

Sec. 52. Section 466B.3, subsection 4, paragraph b, Code 2015, is amended to read as follows:

b. The director of the division of soil conservation ~~division of~~ and water quality within the department of agriculture and land stewardship or the director’s designee.

Sec. 53. Section 466B.41, subsection 3, Code 2015, is amended to read as follows:

3. “Division” means the division of soil conservation and water quality created within the department of agriculture and land stewardship as established in pursuant to [section 161A.4 159.5](#).

Sec. 54. Section 466B.48, subsection 2, paragraph g, Code 2015, is amended to read as follows:

g. ~~The administrative director of the soil conservation division of the department of agriculture and land stewardship as provided in [chapter 161A](#),~~ or the administrative director's designee.

Approved May 15, 2015